

LEGISLATIVE AUDIT COMMITTEE

MINUTES

November 28 and 29, 2007

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. The minutes are also accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Audit Division homepage at http://www.leg.mt.gov/css/audit/meeting_info.asp.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player installed to listen to the audio recording.

Members Present

Sen. Joe Balyeat
Sen. Greg Barkus
Sen. Steve Gallus
Sen. Dave Lewis
Sen. Lynda Moss
Sen. Mitch Tropila

Rep. Bill Beck
Rep. Bill Glaser
Rep. Betsy Hands
Rep. Hal Jacobson
Rep. Bill Wilson

Staff Present

Scott Seacat, Legislative Auditor
Tori Hunthausen, Chief Deputy Legislative Auditor
Jim Gillett, Deputy Legislative Auditor
Angie Grove, Deputy Legislative Auditor
Monica Huyg, Legal Counsel

The Legislative Audit Committee met November 28 and 29, 2007, in Room 152 of the State Capitol. Senator Joe Balyeat, Chairman, called the first day's meeting to order at 8:30 a.m., noting the presence of a quorum.

Minutes approval – Senator Moss made a motion to approve the August 2007 minutes, **motion carried.**

0:04:19 **Nomination and appointment of new members** – Prior to replacing resigning Committee member Representative Mike Phillips, Monica Huyg, Legal Counsel for the Legislative Audit Division, briefly explained the legal guidelines for appointing replacement members. Nominations were opened and Representative Jacobson nominated **Representative Bill Wilson**. A motion to close nominations was made by Representative Jacobson and to accept Representative Wilson as a new member. Motion carried.

Wednesday, November 28

The following reports were presented to the Audit Committee:

0:08:13 **Department of Transportation, 07-17 (Financial-Compliance Audit)**

Pearl Allen of the Legislative Audit Division presented the report to the Committee. Present from the Department of Transportation was Jim Lynch, Director; Jim Currie, Deputy Director; Larry Flynn, Administrator, Administration Division; Jody Brandt, Bureau Chief, Accounting Controls Bureau; and Debbie Alke, Administrator, Aeronautics Division. There were no questions of the auditor following her presentation.

Director Jim Lynch responded to the recommendations for the department. He noted that of the 14 recommendations, 5 have already been complied with, 2 more will be implemented before the end of the year, 2 will need to have legislation sought for clarification, and all others are planned to be completed by the end of the fiscal year. Mr. Lynch handed out copies (Exhibit 1) of a Corrective Action Plan to the Committee which included responsibilities and target dates for completion. He clarified an issue in a previous audit regarding reinstatement moneys for DUI's, stating that at the time of the audit it was thought that legislative action would be needed to allow the reinstatement money to be used by existing DUI task forces in the state of Montana. It was felt that the better action would be to leave the money where it was in the account and try to use it as an encouragement tool for counties without DUI task forces showing the availability to them. He further stated it would be better served by creating more DUI task forces; which is why legislative action was not sought. He added that additional task forces have been added in the state since that time period but there are still counties without them. The plan is to get multi-county task forces, or at least every county in the state, represented by a DUI task force dealing with that issue.

Senator Barkus asked Director Lynch to clarify what type of employees were involved with the excess leave mentioned in the audit. Mr. Lynch stated that a small percentage of employees have work hours taking them beyond the standard 8-hour day in a scheduled shift, such as high-level, administrative workers. He further stated that since the time of the audit, the amount has been decreased down to approximately \$145,000.

Senator Barkus asked the director about the aircraft loan approval and if it was authorized in the general Government Subcommittee. Mr. Lynch confirmed that it was in the long-range planning budget and was approved out of the Highways Special Revenue Fund by the subcommittee as well as by the House and Senate.

Chairman Balyeat continued discussion stating the aircraft loan and diversion of funds from the restricted highway revenue account to the aeronautics administration account could be an unconstitutional diversion and might jeopardize all kinds of funds from the federal government. He asked Director Lynch if this issue was brought up during the subcommittee and might require a 3/5's vote of the legislature. Mr. Lynch responded that it was not brought up because the funds were not an expenditure and unconstitutional diversion is related to an expenditure. He went on to say that this was a loan between departments within the agency and not an unconstitutional diversion of state special revenue funds.

Scott Seacat added that the Legislative Audit Division felt that it was a diversion because the money used to purchase the aircraft is no longer available to the highway program; it has been diverted. He asked Director Lynch if an intercap loan was considered for the purchase. Mr. Lynch responded by saying that this was a budget request made prior to him becoming director and he did not know if this was a consideration. He felt that the reason it did not happen is because it was thought that funds within the

department's operational budget could be used. Mr. Seacat stated that a non-interest loan does constitute a diversion since it is not available to earn interest on the department's state special account. Furthermore, the taking of this sort of a loan to a general government subcommittee does not constitute legislative approval in the opinion of the Legislative Audit Division. Mr. Seacat stated that he is willing to work with the department to try and resolve this issue. Chairman Balyeat pointed out that this was originally presented to the legislature as an interest bearing loan for approval but the last legislative session did not approve interest.

Representative Jacobson asked Debbie Alke of the Aeronautics Division about Recommendation #7 in the audit and what plans are there to clarify state law regarding the disposition of aviation fuel tax revenues for scheduled passenger air carriers. Ms. Alke stated they plan to seek legislation and have been working both with the Legislative Audit Division's counsel and the department's legal counsel to clarify how the legislation needs to read. She reported this would be a bill presented at the 2009 session.

Senator Balyeat asked the director why the timely request for reimbursement of the approximate \$230,000 federal share of costs was not done, as it was addressed in a previous audit and the lost investment funds. Mr. Lynch responded that they are working at clearing up issues with electronic funds transfers and the problem of timeliness should be solved. He stated that there were probably lost funds but when dealing with the "process" of reimbursement it takes time. He said the growth of technology has caused administrative efforts to fall behind creating further delays that have now been corrected due to the audit recommendations, and would not be an issue in future audits.

Representative Beck asked Director Lynch about the timeline in the Corrective Action Plan handed out and whether the department is sharing that information with the Legislative Audit Division. Mr. Lynch stated that discussion has proceeded with the division on how some of the recommendation issues are going to be handled and what direction the department will be going. He feels that it is the department's responsibility to come up with a plan to address the recommendations in the audit but there is communication between the department and the Legislative Audit Division.

There being no public comment, **Representative Jacobson moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

0:44.00

Department of Livestock, 07-22 (Financial-Compliance Audit)

Melissa Soldano of the Legislative Audit Division presented the report to the Committee. Present from the Department of Livestock were Christian Mackay, Executive Officer, and George Harris, Administrator. There were no questions of the auditor following her presentation.

Administrator George Harris presented the response for the department. He explained the two "partial concurs" within the report, noting on Recommendation #3 that errors have been corrected and regular training has and will continue to be provided to staff. As for Recommendation #4, Part C, he stated that the department will probably seek legislation to eliminate the entry fee permit law.

Representative Beck asked Ms. Soldano what specific areas of training are needed regarding the recommendation that the department receive adequate training to comply with state accounting policy. Ms. Soldano stated that the recommendation was made due to accounting errors and that the department feels that their accounting staff is adequately trained. Deputy Legislative Auditor, Jim Gillett, agreed that the department's accountant is well trained but the problem was a conversion of general accounting knowledge to specific knowledge of state accounting policy. The department thought they were in

compliance with state policy and were not, which indicated to the auditor they needed more specific training on state accounting policy.

Senator Lewis asked Executive Officer Christian Mackay about a past controversy regarding board member appointment, in that several employees from the department appeared before the Senate state admin committee and indicated that there would be a large turnover of employee staff if a certain member were appointed. He wanted to know if since that time there has been a large turnover. Mr. Mackay responded that he was not on board during the last legislative session but that he would say that there has not been a great deal of turnover. Since he started in May, only 3 out of the 18 district livestock inspectors have retired, all of them with over 30 years with the department. There are 6-8 more that are, or will be, near 30 years within the next 3-5 years, as well as one that has over 40 years of service.

Senator Balyeat asked George Harris about the Prior Audit Recommendations mentioned in the audit and the fact that out of four recommendations, only one was implemented, one partially implemented, and two not implemented. He stated that those not implemented are again in this audit and asked if these will be implemented this time. Mr. Harris stated that there was a transition in staff to a new accountant and some of the compliance issues mentioned in the prior audit are being cleaned up with the federal grants the department has. He assured the Committee that all will be done to implement the recommendations.

There being no public comment, **Senator Barkus moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

1:05:05 **Department of Agriculture, 07-21 (Financial-Compliance Audit)**

Chris Darragh of the Legislative Audit Division presented the report to the Committee. Present from the Department of Agriculture were Ron de Yong, Director; Joel Clairmont, Deputy Director/Agricultural Development Division Administrator; and Kathy Seacat, Central Services Division Administrator. There were no questions of the auditor following his presentation.

Scott Seacat disclosed his relationship to Kathy Seacat, Central Services Division Administrator and directed any questions for the Legislative Audit Division to Tori Hunthausen, Chief Deputy Legislative Auditor.

Director Ron de Yong responded to the audit report.

There being no question from the Committee and no public comment, **Senator Moss moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

1:09:20 **Department of Fish, Wildlife and Parks, 07-18 (Financial-Compliance Audit)**

John Fine of the Legislative Audit Division presented the report to the Committee. Present from the Department of Fish, Wildlife and Parks were Jeff Hagener, Director; Sue Daly, Chief of Finance; David Clark-Snustad, Accounting and Purchasing Bureau Chief; and Chris Smith, Chief of Staff. There were no questions of the auditor following his presentation.

Director Hagener stated that the department concurred with all six recommendations in the audit and plans to implement corrective actions are underway.

Senator Tropila referenced page 4 of the audit asking Director Hagener about a prior audit recommendation on reconciling land values. He asked how the progress in the reconciliation is coming

along. Director Hagener redirected to Sue Daly and she explained that the department is comparing all land deals since the department began; close to 100 years. She went on to say that the department is making sure that their internal land system reconciles with the state's accounting system. Senator Tropila asked Ms. Daly about habitat easements mentioned on page 8 of the report and whether the understated and overstated expenditures would help in the reconciliation. Ms. Daly stated that these were two separate issues.

Senator Lewis asked Ms. Daly about the \$88,000,000 fund balance in the state's special revenue account and where that money is right now. Ms. Daly responded the department works with the Board of Investments and all of their balances are either long-term or short-term investments depending on what is needed for operating expenses. The Senator asked how much is in STIP (Short-Term Investment Pool) and how much is in long-term. Ms. Daly did not have the exact figures today but offered to provide the specific amounts to the Committee. She did say that the majority is in the long-term.

Senator Tropila, referencing Cash Management on page 6 of the report, asked Ms. Daly about the \$534,312 spent on construction projects, and since projects are not paid until completed, why the money was drawn in the first place. Ms. Daly responded that as expenditures are incurred, state dollars are spent in an ongoing basis until the project is complete. After the project is completed, the department then bills the federal government for reimbursement costs. She stated that what the auditors are recommending is that the department bill on a more frequent basis, monthly, instead of waiting until the end so that state dollars are not being "loaned" to cover these federal costs. The department has implemented this change.

Senator Balyeat asked for more clarification about the \$534,312; was the money asked for ahead of time. Ms. Daly clarified that in the particular federal program mentioned, there are two components. Part of the federal money is allocated to state projects, which the department manages and part of the money is allocated to local communities and smaller government entities. In this portion of the report, subgrantees refers to the local community side, and they were trying to be consistent in how payments were made both to the department's programs funded through the agency and the projects funded to the local communities (subgrantees). When payments are referred to on the state projects, they are made to the contractors and state dollars are used to cover costs. On the local side the same thing is done, but they are reimbursed at the end of the grant and the department is now billing on a monthly basis instead of waiting for the process to be completed.

Representative Jacobson asked Director Hagener about loans made from the General License Account and whether, since the time of the department's response, it has been found these loans were considered an ineligible expense by the USFWS. Director Hagener stated that federal auditors are currently in the office doing an audit and there has been discussions with them regarding these expenses. He further stated that they did not see the loans as a diversion of funds but that it was their recommendation, based on their history with these matters, that it would be best that funds not be used in this way. Director Hagener assured the committee that this particular audit item was not going to be an issue with the USFWS based on his conversations with them. Senator Balyeat followed up stating that even though these funds might not be considered ineligible, there was lost revenue in that the moneys would have earned interest for the General License Account had they stayed in that account. Director Hagener agreed.

There being no public comment, **Representative Jacobson moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

2:07:52

Montana State University (All Campuses), 07-13 (Financial-Related Audit)

John Fine of the Legislative Audit Division presented the report to the Committee. Present were Mary Ellen Baukol, Associate Dean for Administration and Finance, MSU-Great Falls-College of Technology; Laura Humberger, Assistant Vice President for Financial Services, MSU at Bozeman; Terrie Iverson, Administrative Vice Chancellor, MSU-Billings; Craig Roloff, Vice President for Administration and Finance, MSU at Bozeman; Ila Saunders, Interim Director of Internal Audit; Leslie Schmidt, Assistant Vice President for Research, MSU at Bozeman; Chuck Jensen, Vice Chancellor for Finance and Administration/Student Affairs, MSU-Northern; Rolf Groseth, Vice President for Intercampus Affairs; and Alex Capdeville, Chancellor, MSU-Northern.

Senator Barkus stated that this was the first time he had heard of personnel issues in this type of an audit, i.e. criminal background checks, etc. He asked Mr. Fine if this was normal throughout state government or just towards the universities. Mr. Fine responded that this is not necessarily a planned part of the audit work but if some things come to light during the audit, they are explored to see if procedures can be improved and recommendations are made. The Senator then asked if this was a particular problem with the MSU Campuses or was it found because the auditors were placed in the payroll/personnel section. Mr. Fine stated there was no "mission" to find this problem, it just came to light based on observation and subsequent follow-up. Therefore, MSU Campuses are not any more likely to have this than any other type of agency.

Craig Roloff of MSU at Bozeman responded to the report stating that he expects to have all recommendations complied with by the next audit.

Senator Tropila asked Mr. Roloff about safeguarding confidential information and whether, as the report indicated, some felt it too expensive to lock up files or purchase shredders. Mr. Roloff responded that those reasons mentioned were immediate responses and not necessarily correct. He went on to say that the more definite concern was the long amount of time between shreddings and that there would not be any problem with the expense of a shredder. He assured the Committee that corrective action will be taken immediately to ensure confidentiality issues are secured.

Representative Beck asked about criminal background checks - who does this and how it is done. Mr. Roloff responded that there is a university police department that can do official background checks but only for their prospective employees. A private contractor is used for any other employees. He further stated that when the report was done, the universities were being swamped with new hires. The job market was such that they had gone through several months where there would easily be 250 job vacancies being advertised, which was way above what staff levels could accommodate causing them to fall behind. Representative Beck asked if there was a timeline with the contracted agencies to get the information back within a certain period of time since it had taken as long as six months in some cases. Mr. Roloff responded that the six-month delay was not due to the contracted service but due to the delay in requests from the universities. Representative Balyeat asked about terminating employees that have been found to have criminal backgrounds and whether even though they have gone beyond the six-month probation period, they would be let go without liability since information was falsified. Mr. Roloff stated that there have not been many found, but that they were terminated once the information was confirmed to be true. He also confirmed that all background checks in the future will be done within the six-month probation period. Representative Beck asked Mr. Roloff if the background checks are done through one facility or each handle their own. Mr. Roloff responded that each campus handles their own investigations, but on the Bozeman campus one central office handles the criminal background checks for all of the colleges and departments, etc. Each campus goes through the same procedure regarding the background investigations.

Senator Balyeat asked Mr. Roloff about the 17-19 percent substantial decline in enrollment at the universities and whether any plans are in place to deal with this. Mr. Roloff stated that he believes that they are now in a trend that will bring the percentage up to between a 10-12 percent loss. He felt that some campuses will be affected more than others and that there is an agreement with all concerning this decline.

There being no public comment, **Senator Moss moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

2:44:24

The University of Montana (All Campuses), 07-12 (Financial-Related Audit)

Laurie Barrett of the Legislative Audit Division presented the report to the Committee. Present were George Dennison, President; Bob Durringer, Vice President Administration and Finance; Dan Dwyer, Vice President for Research and Development; Mark Pullium, Director, Business Services; John Badovinac, Controller/Business Manager, Business Office; Carleen Cassidy, Director, Contracts and Grants; Russ Fillner, Dean of Fiscal/Plant; and Kathy Burgmeier, Director Internal Audit.

Senator Barkus asked Ms. Barrett about an item in the report regarding Corporate Equipment. If there is an agreement between universities and corporations that is working well, is there a need for a written agreement since that might risk the relationship. Ms. Barrett responded that liability is an issue, as well as cost of the equipment donated. Senator Barkus followed up asking Ms. Barrett if she felt such a written agreement might potentially put a donor in a position of liability with regards to equipment. Ms. Barrett stated that it would depend on who retains title to the equipment. She did request that the university go over this with their legal counsel to make sure who is responsible for the equipment.

Representative Beck stated that in the report where personnel were aware of the policies regarding sole source contracting but in a certain situation did not follow them, asked Ms. Barrett if she had the sense that this was being done in other instances or if she had investigated any others. Ms. Barrett stated that other sole source contracting agreements were looked at and this was the only issue found during the audit period.

President George Dennison responded to the audit providing an Action Plan handout (Exhibit 2) to the Committee outlining what will be done to accomplish the recommendations as well as forecasted completion dates.

Representative Jacobson asked Russ Fillner of the UM Helena College of Technology about the corporate agreement with Miller Welding and how much money this involves. Mr. Fillner responded that Miller Welding initially was looking for a location to hold regional trainings for sales people and came to the Helena campus offering to bring and leave their equipment. They would allow the campus to use the equipment for teaching purposes and the campus would allow them to use the facilities a few times a year for their company trainings. This has been in place for a number of years and UM is now working with the company to get a more formalized document to encompass the activity. Senator Barkus followed up asking Mr. Fillner if he feels there is any risk in the relationship with Miller Welding by requiring this written agreement. Mr. Fillner stated that the company is willing to work with the campus to accomplish this task.

Representative Beck asked for an update referencing Montana Tech and \$332,000 worth of equipment not recorded on accounting records. John Badovinac of Montana Tech responded stating that this was old equipment, not reconcilable at that point in time with the person who was responsible for the records at that time. Adjustments have been made as of June 30, 2007, and records are properly stated.

Senator Balyeat asked President Dennison for his perspective on the student enrollment decline and whether he agreed with the potential 19 percent decline. President Dennison agreed with the eminent decline and cited statistics with regards to high school students. He went on to say that there are ongoing discussions regarding not only the decline, but how to get more high school students to go to college. His best estimate is that with the appropriate steps taken, they can at least deal with any potential impact of the decline of graduating college seniors. Representative Jacobson asked President Dennison to comment on two observations. First, what kind of effect has freezing tuition during the 2007 legislative session had on enrollments and second, how much of an increase will there be in the colleges of technology since their enrollments have been up. President Dennison agreed that the major growths of enrollments have been in the colleges of technology; about 25 percent over the last 10 years. He stated that he expects this to continue primarily because of efforts to reach those students who are not necessarily high school graduates. He went on to say that they have not noticed any impact yet this year but did state that if the overall numbers are looked at for the university system, this year had the highest enrollment ever in the fall of 2007. President Dennison went on to say he feels that the kinds of steps being taken are having an impact and the zero increase in tuition might have helped. However, he was unable to say how much because, at the same time, there was a significant increase in state-funded financial aid making it possible for people from medium-income families to go to college.

Senator Moss asked President Dennison about workforce issues regarding low unemployment rates, older adults working longer, etc. She stated that in Billings they are looking at how to work with businesses and the university system to provide skills for non-traditional students. She wanted to know if this was something that is happening on all of the campuses. President Dennison confirmed that this is true and that the colleges are working hard to assure that workforce employment development is a focus. Senator Moss asked President Dennison if lifelong educational opportunities are also a focus and he agreed that they are.

Senator Tropila asked President Dennison about athletic trade-out agreement policies and if he could assure the Committee that the policies will be followed. President Dennison assured the Committee that the policies will be implemented.

There being no public comment, **Senator Gallus moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

3:07:18

Montana State Lottery, Financial (07C-02) (Contract Audit)

Montana State Lottery, Cash Drawings (07C-03) (Contract Audit)

Mark Blessinger, a partner in the firm of Galusha Higgins and Galusha of Helena, presented both contract audit reports to the Committee. Present from the Montana State Lottery were Jeri Duran, Director of Sales and Marketing; and Sharon McCabe, Director of Finance. Following his presentation, there were no questions from the Committee.

Senator Barkus asked Ms. McCabe about the percentage of gross revenues paid out to winners. He asked if the percentage was normal compared to lotteries across the country. Ms. McCabe responded that it is fairly normal for the industry and she estimates they will pay out approximately 50 percent in prizes. She further explained that even if sales go up, the payout will remain the same due to increase in costs, expenses, etc. Scott Seacat commented that, statutorily, the lottery is required to pay out at least 50 percent and Ms. McCabe agreed that this is correct. Senator Balyeat asked what happens if payouts decrease going below 50 percent. Mr. Seacat responded that if this happens, subsequent games are redesigned to have a higher percentage of winners. Jeri Duran added that prizes are built in to be at least 50 percent and scratch tickets usually higher.

There being no public comment, **Senator Moss moved** the Committee acknowledge receipt of these two audit reports, that they were reviewed by the Committee, filed, and copies of the audit reports be distributed in accordance with law, **motion carried.**

5:08:13 **Policy Holder System, Montana State Fund, (07DP-14 (Information System Audit)**

Nathan Tobin of the Legislative Audit Division presented the report to the Committee. Present from Montana State Fund were Laurence Hubbard, President/CEO; Patti Grosfield, Internal Auditor; and Sam Heigh, IT Insurance Applications. There were no questions of the auditor following his presentation.

Patti Grosfield gave a brief update on follow-up actions regarding the audit. She informed the Committee that the agency is ahead of schedule on implementing some of the corrective actions and those that have not been are scheduled for the next computer system build on December 15.

Senator Balyeat asked Ms. Grosfield about Recommendation #2 where two employees had access to the policy holder system even though their job duties did not require it; has this been looked at more extensively to ensure others were not allowed access. Ms. Grosfield responded that the agency does review extensively and that the two users mentioned were carryovers from an old system and she believed that they probably would not be able to use the current system. Mr. Tobin added that during the audit a thorough canvass was done of the entire user list and those were the only two found. He went on to say that the recommendation was that an overall system of controls be created to ensure this does not happen at all.

There being no public comment, **Senator Moss moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

5:24:30 **Chemical Dependency and Sex Offender Treatment Programs, (07P-08)**
(Performance Audit)

Kent Rice of the Legislative Audit Division presented the report to the Committee. Present from the department were Mike Ferriter, Director; Gary Hamel, Administrator, Health, Planning and Information Services Division; Sue Orand, Chemical Dependency Coordinator, MWP; Pat Smith, Chief, Contracts Placement Bureau, MSP; and Bob Anez, Communications Director Corrections. There were no questions of the auditor.

Director Mike Ferriter stated that the department concurs with all of the recommendations. Gary Hamel handed out the department's Corrective Action Plan (Exhibit 3). Representative Hands asked Mr. Hamel what challenges will be faced in implementing the plan, specifically the formal evaluation process. Mr. Hamel responded that "offenders" will be looked at more closely when they enter the facility, as well as various stages throughout the program with comparisons after program completion. Representative Hands asked for further information as to why this was the first time this has been looked at and what is different from previous plans; about people that have left and how they are being tracked. Director Ferriter explained that some of the challenges through the years have been with information systems not easily worked with, and those responsible for inputting data, such as parole officers, were not experienced with managing data and caseloads. With the data entered, the technology was not available to sort the data. Mr. Ferriter assured the Committee the new OMIS system, as well as new staff, will be the answer to this problem. Representative Hands asked about the "waiting list" and what baseline will there be to compare with in the future to determine if there is a decrease in recidivism. Mr. Ferriter stated that they have not thought about the waiting list but clearly there is a need to get to inmates sooner and be able to chart treatment outcomes. Representative Beck commented that he hopes with the new OMIS system

information will be more readily available when requests are put before the legislature. Mr. Ferriter responded that he feels very confident that this will be the case.

Senator Moss asked Mr. Ferriter about other potential audits recommended by the Legislative Auditor during this audit and if there were any priorities or recommendations for these. Mr. Ferriter stated that it would be helpful if the audit committee could give focus and direction with this.

Senator Lewis asked if costs had been figured out as to what would be asked of the 2009 Legislature to complete implementation of the OMIS system. Mr. Hamel answered that they are in the evaluation process of working out the system in-house. He went on to say that they may need to bring outside contractual help in at some time, and he did not know what the future costs will be; however, when it is known, figures will be provided to the Committee.

There being no public comment, **Senator Moss moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

6:09:09

Teacher's Retirement Division, 07-09 (Financial Audit)

Natalie Gibson of the Legislative Audit Division presented the report to the Committee. Present from the division were David Senn, Executive Director and Dan Gaughan, Accounting/Fiscal Manager. There were no questions of the auditor following her presentation.

David Senn provided the division's response to the audit briefly explaining the highlights of the report.

Representative Jacobson asked Mr. Senn about Administrative Expenses on page A-21 of the report. He noted the drop in expenses in Actuarial Services and Information Technology Services, and wanted to know how this was brought about. Mr. Senn explained that there were more expenses in 2006 because the actuary had to prepare for the legislative session at that time. With regards to the IT services, there were projects being worked on to enhance employer web reporting, as well as the capitalization of long-term assets.

Senator Barkus asked Mr. Senn about the STIP investments and whether he was aware of any Structured Investment Vehicles (SIV). Mr. Senn responded he was not aware of any. Senator Balyeat followed up by asking about the SIV prices that the nation is in right now and whether that would have a material effect on the actuarial soundness. Mr. Senn stated that it is almost impossible to answer but since this is such a small piece of the total portfolio of the Teacher's Retirement System (TRS), it probably will not have a material impact. There has not been any indication of a problem in this area and Mr. Senn will be watching this.

Representative Beck asked Mr. Senn if he had seen any increased activity in the real estate investment area in the future. Mr. Senn stated that all the investments are managed by the Board of Investments (BOI). He further stated that he and the TRS have no authority to manage but that they had met with the BOI a couple of weeks ago. BOI had indicated that they have been moving into that area since 2006 and have hired professional managers to raise that allocation.

There being no public comment, **Representative Wilson moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

6:46:00

Flathead Valley Community College, 07C-08 (Contract Audit)

Robert Denning of Denning, Downey & Associates, P.C. presented the report to the Committee. Present from FVCC were Jane Karas, President, and Jack Burcham, Acting Chief Financial Officer.

Senator Barkus asked about a problem mentioned by Mr. Denning during his FVCC presentation concerning a disagreement in a debt payment and when it was paid. Mr. Denning responded that there was an error as to when it was paid and when that was rectified, the problem was resolved.

Representative Jacobson referenced page 6 on the pie charts showing 2006 and 2007 revenues. He asked Mr. Denning what the Local Appropriations segments were based on. Mr. Denning asked Jane Karas to respond and she stated that these are voted mills which increased in 2007. She further explained that there were no elections run in 2007. The figures are based on the valuation in the increase in the mills that created the differential.

Jane Karas presented the FVCC response to the audit stating that the unqualified opinion was appreciated. There were no further questions from the Committee.

There being no public comment, **Representative Jacobson moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

6:52:55

Miles Community College, 07C-10 (Contract Audit)

Robert Denning of Denning, Downey & Associates, P.C. presented the report to the Committee. Present from MCC were Tad Torgerson, Dean of Administrative Services and Laura Bennett, Controller. There were no questions of the auditor following his presentation.

Tad Torgerson presented the MCC response to the audit stating that the unqualified opinion was appreciated.

Representative Beck asked about the recommendation to use Z tapes off the cash register for reconciliation; what was used in the past. Laura Bennett explained that deposits were done with one summary report but not with the recommendation, the Z tape system has been put into place. Representative Beck asked if the employees operating registers balanced their own funds. Ms. Bennett stated that there is only one register and there is generally only one person operating the cash register during two different shifts. The department head then balances the receipts every day.

Senator Balyeat asked about the statement that deposits were not made in a timely manner and deposit reports did not correspond to actual deposits. Were any funds missing or was it just the timeliness in reporting that confused the deposits. Mr. Denning stated that it was the timeliness issue. Laura Bennett further explained the old process assuring the Committee that funds were not missing.

There being no public comment, **Senator Gallus moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law; **motion carried.**

7:01:58

MUS Workers' Compensation, 07C-07 (Contract Audit)

Brian Wickens of Junkermier, Clark, Campanella, Stevens, P.C. presented the report to the Committee. Present from MUS were Mick Robinson, Associate Commissioner for Fiscal Affairs; Russ Fillner, Assistant Dean/Fiscal & Plant; and Leah Tietz, Director of Work Comp Risk Management.

Mick Robinson presented the agency response to the Committee.

Senator Lewis asked Mr. Robinson about Cash and Cash Equivalents; where the \$7,730,987 is kept. Mr. Robinson responded that some of the long-term investments have been liquidated and transferred to the STIP fund with the BOI. There may be an issue with that particular investment within that portfolio.

Senator Barkus noted there was a jump from approximately \$800,000 in net assets to \$2.5 million over a 4-year period. He asked if there has been a systematic increase each year or a big jump in the investment gain. Mr. Robinson explained there has been a target increase in premiums of about 7 percent a year. There was a drop in claims for this current year which did not occur in previous years. These two factors together show the net asset increase which is unusual compared to preceding years. Leah Tietz stated that Miliman Actuary Consultants provides actuarial services for the agency.

Representative Jacobson inquired if the bond issued four years ago and now paid off was a four or five year bond. Mr. Robinson stated it is not quite paid off, there is one more payment of \$430,000 of a four-year bond.

There being no public comment, **Senator Moss moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

7:11:35

Montana Board of Housing, 07-07 (Financial Audit)

Amber Thorvilson of the Legislative Audit Division presented the report to the Committee. Present from the board were Bruce Brensdal, Executive Director, and Chuck Nemea, Accounting and Finance Manager. There were no questions of the auditor following her presentation.

Bruce Brensdal presented a response to the audit from the board.

Senator Barkus asked Mr. Brensdal if he is comfortable with the current status of the mortgage pool the board has. Mr. Brensdal responded that the mortgages are written to traditional levels and are high credit mortgages. The delinquency rate is approximately 1.82 percent compared to a national average of 5 percent. Foreclosure rates are .46 percent due to counseling in the areas of foreclosure and homebuyer education. Senator Barkus asked about the success of the reverse mortgage pool, which is up to 81, and is becoming utilized more by the elderly or being marketed more. Mr. Brensdal replied it is being marketed more and being accepted better.

Senator Balyeat asked about the default rate and why it was not mentioned in the report. Mr. Brensdal responded that it is not a required disclosure but it is something that could be added to management discussion as additional information to include in the report if the Committee would like it. This is disclosed in official statements when bonds are issued. The Committee agreed that they would like this information in future reports.

There being no public comment, **Senator Barkus moved** the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law; **motion carried.**

Other Business

Scott Seacat mentioned that it is important to have a January meeting because opinions have to be issued on the state's financial statements which will then be released to the Department of Administration.

Also, a Board of Investments audit report needs to be issued in January. The Committee set the next meeting for Wednesday, January 23, 2008.

It was noted that due to a death in the family, the OPI report scheduled for tomorrow has been moved to the January meeting.

Senator Balyeat stated that there will be an extra presentation tomorrow from Dr. Sheila Stearns, Commissioner of Higher Education, on university enrollment declines.

Committee adjourned at 3:42 p.m. for the day.

Reconvene, Thursday, November 29

Members Present

Sen. Joe Balyeat
Sen. Greg Barkus
Sen. Steve Gallus
Sen. Dave Lewis
Sen. Mitch Tropila

Rep. Bill Beck
Rep. Bill Glaser
Rep. Betsy Hands
Rep. Hal Jacobson
Rep. Bill Wilson

Staff Present

Scott Seacat, Legislative Auditor
Tori Hunthausen, Chief Deputy Legislative Auditor
Jim Gillett, Deputy Legislative Auditor
Angie Grove, Deputy Legislative Auditor
Monica Huyg, Legal Counsel

The following reports were presented to the Audit Committee:

0:00:42 **Montana Arts Council, 07-24 (Financial-Compliance Audit)**

Laurie Barrett of the Legislative Audit Division presented the report to the Committee. Present from the council were Arlynn Fishbaugh, Executive Director, and Carleen Layne, Accountant.

Arlynn Fishbaugh presented the council's response to the Committee.

There being no public comment, **a motion was made** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

0:04:17 **Department of Commerce, 07-16 (Financial-Compliance Audit)**

Alexa O'Dell of the Legislative Audit Division presented the report to the Committee. Present from the department were Anthony Preite, Director; Andy Poole, Deputy Director; Gary Morehouse, Business Resource Division; Dave Cole, Community Development Division Administrator; Bruce Brensdal,

Administrator, Housing Division; Maureen Martin, Housing Division; Gayle Moon, Accounting & Fiscal Manager, Board of Investments; Barb Charlton, Administrator, Management Services Division; Teri Juneau, Accounting & Fiscal Manager, Management Services Division; and BJ Adams, Accountant, Management Services Division.

Andy Poole presented the department's response to the audit noting that they concur with all recommendations in the report and explained what actions have or will be taken to resolve them.

Senator Lewis asked Gayle Moon a question regarding fiscal year 2006 errors mentioned in the report and whether that affected the balances of fiscal year 2007. Ms. Moon stated that it did not.

Senator Tropila asked about the Capital Projects Fund and why the department, which had appropriation authority, did not expend any funds. Mr. Poole stated that the project estimate costs these funds were to be used for had actually doubled in cost. They have been working with DOA during the past year to come up with an estimate or ability to build these facilities at an affordable cost and expect that this will start to happen in early spring this year.

Senator Barkus asked about the Investment Trust Fund where legally separate governments commingle investments in a pool. He wanted to know if some of the participants pull out their funds, is the last entity in the pool left with all the risks or is it shared equally by all. The person able to answer this question was not available and since the Committee thought this to be an important issue, it was decided to schedule discussion at 2:15 p.m. later that day having the appropriate department staff available.

Senator Balyeat commented that it seemed throughout the report that the department was unsure that LAD staff were interpreting things correctly but that when the recommendations were made, all were concurred with. Mr. Poole assured that all was concurred with and that the three audit findings that led to the qualified opinion had to do with human error. It was made clear that the department needs to do some control procedures to solve this problem.

There being no public comment, **a motion was made** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

0:30:47

Department of Public Health and Human Services, 07-14
(Financial-Compliance Audit)

Geri Hoffman and Brenda Kedish of the Legislative Audit Division presented the report to the Committee. Present from the department were Joan Miles, Director; John Chappuis, Deputy Director; Laurie Lamson, Administrator, Business and Financial Services Division; Marie Matthews, Bureau Chief, Business and Financial Services Division; Bill Kloker, Bureau Chief, Financial Operations; Joan Bowsher, Bureau Chief, WIC Program; Jane Smilie, Administrator, Public Health and Safety Division; and Mary Dalton, Administrator, Health Resources Division.

Joan Miles delivered the department response to the audit commenting that she is proud of the fact that during the last five years they have had unqualified audits. She stated that there was some frustration with the two things this year that put them into the qualified opinion noting that with one particular instance, their internal system caught the error the next day and corrections were made immediately.

Laurie Lamson briefly explained the DPHHS internal audit group and how it functions. She also outlined a plan for future measures to make sure that some of what was felt to be "fatigue mistakes" would not happen. She emphasized that there is a good internal system of controls and had it not been for

the two errors, there would have been an unqualified opinion. She went on to say that the department has completed work to date on six of the 19 recommendations and are working on the other 13. Also, on the six recommendations from the prior audit mentioned in the report, five have been completed and the last one should be completed before fiscal year end.

Representative Jacobson thanked DPHHS for the Corrective Action Plan (Exhibit 4) presented to the Committee, as well as their hard work and commitment.

Senator Tropila wanted to know when the CHIME system will be up and running 100 percent and will it help with some of the internal controls. John Chappuis answered that it will take until July 2009 for the CHIME system to come up. There have been issues with the contractor regarding staying within budget which has caused delays. He went on to say that he believes the CHIME system will help greatly in that it will have checks and balances that the department does not currently have. Senator Tropila followed by asking about outstanding receivables and whether the department charges interest on these. Mr. Chappuis responded that the department does have an interest policy, but that it is not always uniformly applied. Each case is looked at individually and sometimes the interest is waived due to extenuating circumstances.

Senator Balyeat asked why there was a delay with implementing the six prior audit recommendations. Laurie Lamson explained that two of the recommendations, with one having three subparts were related to the WIC program and it was a matter of staff time. The internal audit group did a follow-up report and looked at the current process letting WIC know what needed to be done to accomplish the goals. With regard to Medicaid overpayments, it is difficult to approach hospitals as “deadbeats” before they have had a chance to have their billing processes pay, but this is being worked on. She went on to say that concerning drug utilization data, they have been trying to coordinate getting late information from the federal government that would allow them to deal with this timely, but not double bill providers. Concerning implementing procedures to process payments to vendors in compliance with state law, there have been staffing issues in this area as well as other problems. It is being taken seriously and will be resolved this year. Senator Balyeat asked if the problem with WIC was one of getting positive identification from recipients and substantiation of income. Ms. Lamson responded that this was a one-time finding that one of the providers were not doing the work needed to do, but it was not a prior finding. The issues with WIC were monitoring and investigations of stores to make sure proper procedure was being followed.

Senator Balyeat asked about the excess leave issue and whether the 11 employees cited in the audit report were upper management employees. Ms. Lamson stated that this is a long-standing problem with many departments and throughout this issue, excess annual leave has not been taken away from employees. In the interim there have been some court decisions stating that annual leave was a property right of the employee. Ms. Lamson further explained that this has been in the private sector and not been found to be the case in state government. When she started work with DPHHS one of her first assignments was to “fix” this problem, and she was one of the ones involved in the new policy put together that addresses managing leave appropriately under the law so that any excess is removed. Leave is identified that if there is excess in September, employees have until March to use it and, if they cannot, they must put together a plan. If the plan is denied, they have until the following December and if not used by then, it is taken off the books. With regard to the payments that were made previously, all the employees were under Pay Plan 20 and the understanding was that they could be provided bonuses or payments for retention purposes since they were very critical to the organization during a time of a great deal of turnover in staff. Ms. Lamson further stated that even though she was assigned to manage this appropriately under state law, there was some clean-up to do. Senator Balyeat asked if the department’s excess leave beyond what state law allows was accumulated primarily by upper level employees. Ms. Lamson stated that the accumulation and not taking it away was across the board. Senator Balyeat

replied that in at least one of the other agencies, only upper level employees were allowed to actually accumulate beyond what was allowed by state law and an exception was only done for these. Scott Seacat confirmed that this was true within the Department of Transportation reported during yesterday's meeting. Only the non-traditional, non 8-5 management level employees were allowed excess leave accumulation.

Director Miles was called upon to give further explanation and she gave a detailed account of the situation and how it was handled within her department. Senator Balyeat asked her if the issue of detrimental reliance entered into discussions of how to deal with this problem without getting into a court case and was this why bonuses were done. Ms. Miles confirmed that the discussion did come up but it really impacted a decision on only one person who did leave. She re-affirmed that at present, excess leave is not allowed to accumulate. She further stated that she will still look at retention and performance under Pay Plan 20 but to keep that very separate. Representative Beck asked Director Miles if she felt this is something that should be brought back before the legislature for adjustments, or is she comfortable with the present state law regarding excess leave. Ms. Miles explained her frustrations and responded that there are many problems that could be addressed by the legislature, or at least continue to give DPHHS the ability to address it through performance and retention.

Scott Seacat added that since the state accounting system has all employees set at an hourly rate, if this were put to a court case it would be interpreted that there is a property right associated with the accumulation of not only annual leave, but also comp time. There is a policy issue that needs to be addressed by the legislature with all employees treated and situated exactly the same.

Legal Counsel Monica Huyg also added that the property right exists and detrimental reliance comes in when agencies allow the excess leave to accumulate. If this were to come to a court case, the state would not be in a great position since different departments are not handling this consistently.

Senator Gallus asked what state employees, agencies, and departments are 100 percent exempt. Ms. Huyg responded none to her knowledge.

Representative Hands commented that along with these issues, she feels that the underlying problem is overworking employees and the better direction would be to look at situations and hire additional staff when needed. Director Miles responded that this is something she is aware of and besides asking for additional FTE's, the department is always looking at more efficient ways to do things, provide good training to new employees, etc. She did feel that once employees are made aware of the law and that it will be implemented, they will work with their supervisors to take the time off accumulated.

Senator Tropila asked if there were many Medicaid overpayments and how successful is the department at getting the money back from providers. Mary Dalton explained the process involved in paying "critical access" hospitals in smaller towns. They are paid by a cost settlement schedule done on the same schedule as Medicare. If overpayment or underpayment has been made on a rate, it is corrected. She assured that the overpayments are collected and received.

Senator Lewis asked about the use of bonuses and whether this should be allowed to go into the present law base pay. He wanted to know that since the department is using bonuses as a tool, what is the process now with their budget preparation. Deputy Director Chappuis stated that bonuses should not go into the base pay. It should be a one-time item not recurring and being put into the base for budgeting purposes.

There being no public comment, **a motion was made** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

1:38:25 **Performance Audit Follow-Up Reports – Presented by Auditor Lisa Blanford**

Improving In-Home Services Contract Monitoring, Child and Family Services Division, 08SP-14 (orig. 04P-12)

The original report was presented to the Committee in May 2006. There were three recommendations regarding the division's monitoring of in-home services contracts. Two of the recommendations have been implemented and the third partially implemented. With regard to the last one, the division is working on looking for software that will allow them to produce some management reports and monitor outcomes more effectively.

Wildland Fire Administration, 05SP-21 (orig. 04P-11)

The original report was presented to the Committee in December 2004. There were 27 recommendations to improve how DNRC administers wildland fires, 26 of which were directed to DNRC and included the areas of initial attack of wildland fires, cost controls over wildland project fires, post fire activities, aviation resources used in wildland fire suppression, and other miscellaneous fire issues. One was directed to the Legislature and related to updating fire-related statutes. DNRC has either implemented or is implementing all of theirs and the Legislature implemented its recommendation during the 2005 and 2007 Legislative sessions.

Governor's Office of Economic Development, Office of the Governor, (orig. 04P-01)

The original report was presented to the Committee in December 2004. The original audit contained five recommendations, four to the Legislature and one to the Governor's Office. These recommendations were geared towards promoting continuity and stability of this function and of this office. To date, two recommendations addressed to the Legislature have been partially implemented and one fully implemented. This follow-up lists the following options for implementation of the recommendations:

- ▶ Defining timeframes for updating and reporting a statewide economic development plan to include both continuing and new policy initiatives.
- ▶ Continuing to develop and use the performance measurement approach outlined in the original statewide economic development plan as a means of guiding the work of GOED.
- ▶ Ensuring oversight, public input and reporting of results for GOED economic development functions is integrated in the assigned duties of the Governor's Economic Development Advisory Council or a similar group.

The Help America Vote Act and Related Issues, 07P-02

At the last meeting held in August 2007, the Committee had requested a timeline for implementation of the 14 audit recommendations with regards to HAVA. The Secretary of State's office provided the information for this meeting and it was handed out to the Committee members for review.

Characteristics of the Population Served at Montana State Hospital, 06P-03

The Committee, during the August 2007 meeting, asked that an information technology plan be provided to them. The hospital staff responded that they are working on the plan and anticipate having it done by January 2008.

2:11:08

Department of Labor and Industry, 07-15 (Financial-Compliance Audit)

Jeane Carstensen-Garrett and Laura Norris of the Legislative Audit Division presented the report to the Committee. Present from the department were Keith Kelly, Director; Roy Mulvaney, Administrator, Unemployment Insurance Division; Tammy LaVigne, Administrator, Centralized Services Division; Jerry Keck, Administrator, Employment Relations Division; Mike Cooney, Administrator, Business Standards Division; Sandy Bay, Bureau Chief, Contributions Bureau, Unemployment Insurance Division; and Bernadine Warren, Bureau Chief, Program Support/Bureau.

Director Keith Kelly presented the department response stating that they concur with all recommendations with some already implemented and moving forward with rest. He also addressed the excess leave issue clarifying what is currently happening in management and non-management employee situations. He stated that because of recent rules, the department does not allow accumulated excess annual leave.

Senator Balyeat asked about building code and that the department did not have the authority to charge fines, and if there were other fines being wrongly charged in other departments that were not picked up during the audit. Ms. Norris stated that this one was found through interview. They did not do an entire across-the-board check on the department. Director Kelly responded that, in this case, there was a conflict with the administrative rules and statutes. During the next legislative session, the department will be asking for statutory remedy. Mike Cooney offered his comments stating that there are certain fines that are allowed statutorily and, as a result of this finding, a good hard look is being taken throughout the division to see if there are other areas with the same miscommunication. He assured the Committee that the building codes fees that were collected are being refunded. Senator Gallus asked about the Board of Outfitters and if they are being wrongly charged fines. Director Kelly said that he would look into this.

Representative Beck asked Mr. Kelly about segregation of duties and reconciliations, and the audit found that only one employee has control of reconciling and computer entry making it possible for errors and fraudulent recordkeeping. He asked if there were any previous audits that brought this up in the past. Mr. Kelly was not aware of any past audits and responded that this has been rectified. The duties were separated as of September 2007 with two separate employees handling the duties.

There being no public comment, **a motion was made by Senator Lewis** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

2:42:05

Unemployment Insurance Tax System, 07DP-03 (Information System Audit)

Deon Olson of the Legislative Audit Division presented the report to the Committee. Present from the department were Keith Kelly, Director; Roy Mulvaney, Administrator Unemployment Insurance Division; Tammy LaVigne, Administrator, Centralized Services Division; Jerry Keck, Administrator, Employment Relations Division; Mike Cooney, Administrator, Business Standards Division; Sandy Bay, Bureau Chief, Contributions Bureau, Unemployment Insurance Division; and Bernadine Warren, Bureau Chief, Program Support/Bureau.

Director Keith Kelly presented the response from the department stating that they concur with the two-fold recommendation in the audit and plans are already in the works to implement each. He explained that with respect to the second part of the recommendation, it is intended to remove the reconciliation component in 2010 when the statute of limitations runs out because of the complications it would cause in removing it now.

Senator Tropila asked about the first part of the recommendation which the department intends to implement by June 30, 2008, if this could be accomplished sooner. Roy Mulvaney responded that they will work to get this done and that, at the present time, all access has been suspended to the areas mentioned. There are some involved processes on a systems basis to make sure everything is in place.

There being no public comment, **a motion was made by Representative Jacobson** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

2:53:28

Legislative Branch Contract Audits**Legislative Branch, Excluding the Consumer Counsel, 07C-05**

Dawn Wrigg of Junkermier, Clark, Campanella, Stevens, P.C., presented the report to the Committee. Present from the branch were Susan Byorth Fox, Executive Director, Legislative Services Division; Kelly DaSilva, Human Resource Officer; Jennifer Simmons, Accounting Specialist; Lenore Adams; Facilities Manager; and Karen Berger, Financial Services Manager, Legislative Services Division.

Susan Byorth Fox presented a response from the Legislative Branch.

There being no public comment, **a motion was made by Representative Jacobson** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

Legislative Branch, Consumer Counsel, 07-23

Brian Wickens of Junkermier, Clark, Campanella, Stevens, P.C., presented the report to the Committee. Present from the branch were Robert A. Nelson, Consumer Counsel; and Mandi Shulund, Office Manager.

Robert A. Nelson presented a response from the Legislative Branch thanking all involved with the audit.

There being no public comment, **a motion was made** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

3:01:05

Montana State Library Commission, 07-23 (Financial-Compliance Audit)

Jeff Tamblyn of the Legislative Audit Division presented the report to the Committee. Present from the Library was Kris Schmitz, Central Services Manager.

Kris Schmitz presented the response from the Library stating that they concur with the recommendation and outlined how it will be implemented.

There being no public comment, **a motion was made by Senator Lewis** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

Potential Performance Audit Priority List

Angie Grove handed out a performance audit update to the Committee compiled from the Committee's suggestions on areas for potential audits. Also included was a summary and overview of

outcomes in the last 2-3 audit cycles which Ms. Grove briefly explained. She referenced the top 15 audits stating three related to fire suppression management activities discussed at the last meeting. There was an interim committee appointed with Legislative Services focusing on fire suppression and two members of this committee are on that committee also. Because of the actions of that committee, it is recommended that these three suggested audits be put on hold until future outcomes from the committee are known (Attachment 1).

Senator Barkus moved that an audit regarding Insure Montana be put into the top 10 list. Scott Seacat mentioned that if the Legislative Audit Division has to issue an opinion regarding the adequacy of insurance rates, outside contracted help would be hired to do that. He explained that with the Insure Montana audit, this may need to be done. He suggested that a risk assessment be done, decide on focus areas, and get the information on whether to do a full blown audit or a reduced scope. **The motion to move Insure Montana to the top 10 list carried.**

Ms. Grove referenced Weed Management on the priority list as #21 and recommended that a risk assessment be done putting this audit in the second tier on the list. This seems to be of high interest since both the House and Senate recently passed a resolution regarding it. The Committee agreed with the recommendation.

Following Lunch Break, the Meeting Reconvened at 1:30 p.m.

5:03:20 **Montana's 9-1-1 Emergency Telephone System, 07P-12** (Performance Audit)

Kent Wilcox of the Legislative Audit Division presented the report to the Committee. Present from the department were Dick Clark, State Chief Information Officer and Division Administrator, Information Technology Services Division; Jeff Brandt, Deputy Chief Information Officer, Information Technology Services Division; and Becky Berger, Manager, 9-1-1 Program, Public Safety Services Bureau, Information Technology Services Division.

Dick Clark presented the department's response noting that the recommendations have been concurred with and a corrective action plan is in place for implementation.

Senator Lewis asked about this service and whether there has been any movement on the part of counties to regionalize it. Becky Berger responded there have been some consolidations at the local level but for the most part there has not been any desire. She stated that one reason could be that in order to dispatch, adequate radio communications would be needed between neighboring counties. There was further discussion regarding interest in the service, allowing input to the Advisory Council, recent surveys and other issues. Angie Grove stated that coordinating a survey with the program and the Advisory Council could be done through MACO to see what the overall standings might be. Senator Lewis approved of this suggestion. Senator Balyeat also suggested getting the Legislative Auditor to do a follow-up after the next 9-1-1 Advisory Council meeting on January 9, 2008. Scott Seacat agreed and asked for the council's responses to Recommendations 3, 4 and 5.

Representative Hands asked for additional clarification about Recommendation #3 and how program funds are spent. Jeff Brandt explained some of the concerns, stating that the Advisory Council stays current and involved with the process. The council agrees with the recommendation in having some statute and formality through legislature to make sure expenditures are used correctly. Representative Hands asked about the specific fees legislated in the last session that were allocated for enhancing 9-1-1 wireless technology. Mr. Brandt explained that the .50 cent fee added was split into 2 pieces - .25 cents went to local county PSAPs and the other .25 cents to the wireless carriers in those regions for tower equipment.

There was further discussion regarding differences in services in counties, administrative costs in low-populated counties, legislative issues, and equipment updates.

There being no public comment, **a motion was made by Representative Hands** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

5:40:10 **Office of the Commissioner of Higher Education, 07-20** (Financial-Compliance Audit)

Amber Thorvilson of the Legislative Audit Division presented the report to the Committee. Present from the office were Sheila M. Stearns, Commissioner; Mick Robinson, Associate Commissioner for Fiscal Affairs; Frieda Houser, Director of Accounting and Budget; Paul Bogumill, Director of Benefits; Bruce Marks, Director of Montana Guaranteed Student Loan Program; Ron Muffick, Associate Director, Montana Guaranteed Student Loan Program; and Cathy Swift, Legal Counsel.

Commissioner Stearns presented the office response stating that four of the six recommendations have already been implemented and they are in the process of implementing Recommendation #3. She noted that they do not concur with Recommendation #1 and reasons why were explained by staff member Mick Robinson and Kelly Gravinsky from Actuaries Northwest. Mr. Gravinsky provided the Committee with a handout entitled "Summary of Required IBNR and General Plan Reserves" (Exhibit 6) for their review. Further discussion revealed the fact that the auditor had asked for reports based on sound actuarial principles that, at the time of the audit, had not been available. These were provided for this meeting.

Senator Tropila asked about indirect costs recovery and whether these funds can be retroactively obtained back from the federal government. Mr. Robinson responded to this explaining that it is a complex issue and that they are continuing to improve in this area.

There being no public comment, **a motion was made by Representative Jacobson** that the Committee acknowledge receipt of the audit report, that it was reviewed by the Committee, filed, and copies of the audit report be distributed in accordance with law, **motion carried.**

6:37:48 **Other Business**

Budget Director David Ewer was asked to attend this meeting to answer some questions that came up about the Board of Investments earlier in the day during the Department of Commerce report. The main issue revolved around the State of Montana Short Term Investment Pool (STIP) and the recent approximate \$214 million, or about 24 percent, in withdrawals from this fund by local government investors. There was much discussion and concern from all present. The Committee asked that they and the Legislative Auditor be provided updates about STIP and SIV upgrades, downgrades, defaults, and asset valuation changes. Mr. Ewer agreed.

Next Meeting Date

The next meeting of the Legislative Audit Committee will be on Wednesday, January 23, 2008.

There being no further business, the meeting was adjourned at 4:00 p.m.

Signed:

Sen. Lynda Moss, Secretary